IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 12379 of 2006(W)

CC.820/2004 of J.M.F.C.,ALATHUR

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PETITIONER:

GANDHI SMARAKA GRAMA SEVA KENDRAM,
REP. BY ITS SECRETARY, MANGALAM,
ANJUMOORTHY.P.0, PALAKKAD.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE,
VADAKKENCHERRY,
ALATHUR TALUK, PALAKKAD DISTRICT.

BY GOVERNMENT PLEADER SRI.K.A.AKBAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

W.P.C.NO.12379 OF 2006

Dated this the 18th day of December, 2006.

JUDGMENT

The petitioner is the defacto complainant in a prosecution under Sections 120 B and 420 I.P.C. The crux of the allegations is that certain letter heads and rubber seals were forged by the petitioner, making use of which the bank was informed that the payments on a cheque must be stopped. It is the case of the defacto complainant that the accused had indulged in fraud and crime to ensure that the bank acted on such request. Investigation is complete. Final report has already been filed. The matter is pending before the learned Magistrate.

2. The grievance of the petitioner is that in spite of complaints, no serious efforts whatsoever have been undertaken by the Investigating Officer to trace and recover the seals which were allegedly made to facilitate commission of the crime. According to the petitioner, the police did not make any such serious efforts with ulterior motivation. It is submitted that if a further investigation is conducted, it must be possible for the police to trace the seals in question which will go a long way for the proper and efficient prosecution of the accused persons.

3. The learned Public Prosecutor has got a statement filed by the respondent, the present Circle Inspector of Police, Vadakkencherry. In his statement in para.6 he states thus:

> "On perusal of the CD file, it is seen that though the investigating officer had interrogated and recorded the confession statement of the accused, no other efforts were being taken to recovery the seal of the institution, which was allegedly used by the accused other than the house search of the accused persons. At this stage, I am not in a position to recovery the seal and proceed legally. The case was already charge sheeted by Sri.K.A.Thomas, S.I on 19.09.2004 and now he was retired from service on 31.03.2006."

The case diary has also been brought to Court by the learned Public Prosecutor. The learned Public Prosecutor also submits that there is no other attempt except the interrogation of the accused made by the Investigating Officer to trace and recover the seals in question. After discussions at the Bar, the learned Public Prosecutor submits that the 2nd respondent shall now file a proper application before the learned Magistrate concerned for leave to conduct further investigation under Section 173(8) Cr.P.C and shall make every endeavour to attempt to recover the seal and other relevant documents/objects in question.

4. I accept the said submission of the learned Public Prosecutor. Necessary applications to this effect shall be made

before the learned Magistrate concerned within a period of 15 days from this date by the Investigating Officer. Expeditiously the further investigation shall be completed and further report made to the learned Magistrate.

5. This Crl.M.C is, in these circumstances, allowed in part, to the above extent. Hand over a copy of this order to the learned Public Prosecutor, who shall communicate the same forthwith to the Investigating Officer.

R.BASANT
JUDGE

rtr/